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**UNITED STATES DISTRICT COURT****EASTERN DISTRICT OF TEXAS**

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FLORENCIO HERNANDEZ,

Plaintiff,

*versus*STATE OF TEXAS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-55

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, Florencio Hernandez, an inmate formerly confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, filed this civil rights complaint pursuant to 42 U.S.C. § 1983 against defendants Alton Alexander, Warden Joe Smith, Captain Felix Gordon and Sergeant Milton Gilmore.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. Defendants Smith, Gordon and Gilmore filed a motion for summary judgment asserting the affirmative defense of qualified immunity. The Magistrate Judge recommends the motion for summary judgment be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

## ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the magistrate judge is **ADOPTED**. A partial judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 19th day of March, 2014.

A handwritten signature in cursive script, reading "Marcia A. Crone".

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE